JAMES M. CHUDNOW ET AL.

IBLA 83-94 Decided January 11, 1983

Appeals from several decisions of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers for acquired lands, NM-A 52178, NM-A 52291, NM-A 52292, and NM-A 52294.

Affirmed.

Appeals concerning noncompetitive oil and gas lease offers for acquired lands, NM-A 52170 and NM-A 52828.

Dismissed.

1. Administrative Procedure: Generally -- Appeals -- Rules of Practice: Appeals: Standing to Appeal

   Under 43 CFR 4.410, a party must be adversely affected by a decision of an officer of the Bureau of Land Management in order to have the right to appeal to the Board of Land Appeals.

2. Oil and Gas Leases: Applications: Description -- Oil and Gas Leases: Description of Land

   An offer for an acquired lands oil and gas lease covering lands which have not been surveyed under the rectangular system of public land surveys must be rejected where the offer does not describe the lands by metes and bounds, giving courses and distances and a tie to a public land survey corner. Where BLM must go outside of the offer form itself to determine exactly what land the offer embraced, the offer is defective and rejected as insufficient.

APPEARANCES: James M. Chudnow, et al., pro sese. 1/

OPINION BY ADMINISTRATIVE JUDGE STUEBING

James M. Chudnow and others with interests in the offers appeal from several decisions of the New Mexico State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offers for acquired lands, NM-A 52178, NM-A 52291, NM-A 52292, and NM-A 52294. 2/ BLM rejected NM-A 52178 in a decision dated September 15, 1982, and NM-A 52291, NM-A 52292, and NM-A 52294 in separate decisions dated September 24, 1982, because the respective descriptions given in the offers were by aliquot parts based on the rectangular public lands survey system. BLM declared that the acquired lands applied for were unsurveyed and that the descriptions given were contrary to 43 CFR 3101.2-3 and, thus, defective. Appellants appeal the decisions to reject these lease offers because they feel that BLM's status plats actually indicate that the land is surveyed. Appellants argue that the description properly and adequately defines the land applied for, and that BLM should conform its status plats with the official survey.

[1] James M. Chudnow and those persons having interests therein have also presented appeals in the matter of two other noncompetitive oil and gas lease offers for acquired lands located in the same area as the above offers. 3/ At this time, neither of these two offers, NM-A 52170 and NM-A 52828, have had initial administrative decisions rendered concerning them that are adverse to the offerors. Under 43 CFR 4.410, a party must have been adversely affected by a decision of an officer of the Bureau of Land Management in order to have the right to appeal to this Board. See California State Lands Commission, 58 IBLA 213 (1981). Decisions adversely affecting the offerors have not been rendered by BLM with respect to these two offers and, therefore, the respective appeals for NM-A 52170 and NM-A 52828 are dismissed.

1/ James M. Chudnow appears not only in his own behalf (as he is entitled to do), but on behalf of George and Lillian Conrich and Laurent A. Giesbert as their "agent." Mere "agents" or "attorneys in fact" are not qualified to practice before this Department in a representative capacity. 43 CFR 1.3. See United States v. Gayanich, 36 IBLA 111 (1978). However, in view of our disposition of this appeal we need not consider dismissal as to these individuals.

2/ Joining James M. Chudnow in these appeals are those persons who have part interest in the lease offers.

NM-A 52178: A. F. Klass (50 percent interest).
NM-A 52291: Lhea Jacobs (50 percent interest).
NM-A 52292: George Conrich and Lillian Conrich (joint 50 percent interest).
NM-A 52294: John L. Messinger (50 percent interest).

Because the decisions appealed from and the statements of reasons are identical, the appeals are consolidated into this one decision.

3/ Others interested in these two offers are:

NM-A 52170: Allen F. Jacobs (50 percent interest).
NM-A 52828: Laurent A. Giesbert (50 percent interest).

[2] The lands applied for in the 4 rejected offers were described by appellants as located in secs. 1, 11, 12, T. 21 N., R. 4 E., secs. 24, 25, 36, T. 22 N., R. 4 E., New Mexico principal meridian, Rio Arriba County, New Mexico. 4/ The offers were filed January 19, 1982 (NM-A 52178) and February 1, 1982 (NM-A 52291, NM-A 52292, and NM-A 52294) for lands acquired through purchase by the United States in 1937. These lands were previously part of the Polvadera Grant, the boundary established by survey in August 1898. The township designated as T. 21 N., R. 4 E., New Mexico principal meridian was surveyed in 1882 and partially resurveyed in 1926, and the township designated as T. 22 N., R. 4 E., New Mexico principal meridian was surveyed in 1924. These townships are fractional because areas that would normally have been made a part thereof were in the Polvadera Grant (and preceding grants) and therefore were not surveyed and included in the rectangular public survey system. These areas appear in BLM's plats as unsurveyed acquired lands. The description used in the deeds conveying to the United States the lands within the Polvadera Grant are by metes and bounds.

The purpose of the Departmental regulations for descriptions in offers is to require the offeror to give a description which is at least sufficient on its face to delimit the lands applied for. See Milan S. Papulak, 63 IBLA 16 (1982). 43 CFR 3101.2-3 is the applicable regulation for description of an offer for acquired lands. Section 3101.2-3 segregates acquired lands into three categories: (a) Surveyed lands, (b) lands not surveyed under the rectangular survey system, and (c) accreted lands. Section 3101.2 prescribes distinct and separate methods of providing acceptable descriptions of lands in each category. Appellants claim that the lands applied for are surveyed and must be described using the survey system because the descriptions can be conformed to that system. See 43 CFR 3101.2-3(a). Lands not surveyed under the rectangular survey system must be described (1) as in the conveying deed, (2) by courses or distances tied to a nearby public land survey, or (3) by the acquisition tract number, depending on the circumstances, and the offer must be accompanied by a map clearly marked showing the location of the lands requested. See 43 CFR 3101.2-3. The acquired lands requested were unsurveyed and, thus, the descriptions should have been completed pursuant to that regulation.

The basic controversy is whether the acquired lands requested were surveyed or not. Appellants assert that they relied on BLM's maps for the determination that the lands were surveyed and that those maps certainly give that impression. However, the official surveys upon which BLM's maps were based show that the acquired lands known as Polvadera Grant were not surveyed. A close look at BLM's maps reveal that the acquired lands supposedly requested

---

4/ NM-A 52178 describes lands as supposedly located in sec. 24, T. 22 N., R. 4 E., New Mexico principal meridian. If BLM were to accept appellants' description, one possible interpretation would place the lands desired within an area that has been surveyed under the rectangular survey system. However, according to BLM's plats, the lands within the surveyed area are public domain lands and not acquired lands. Accordingly, appellants' noncompetitive oil and gas lease offers for acquired lands would be defective if applied to public domain lands.

in the subject offers are not marked and platted as are the surveyed public lands that surround them. Offers for acquired lands oil and gas leases covering lands which have not been surveyed under the rectangular system of public lands surveys must be rejected where the offers do not describe the lands by metes and bounds, giving courses and distances and a tie to a public land survey corner. Arthur E. Meinhart, 6 IBLA 39 (1972).

Appellants also argue that there is no ambiguity in the description, enabling BLM to determine what they sought by referring to the status plats. This argument points to one of the basic reasons for the regulation. BLM receives a large volume of oil and gas lease applications and simply does not have the time or money to spend determining the precise proper descriptions of the lands desired. Furthermore, an accurate accounting of the boundaries and acreage for the lands requested would be impossible where a nonexistent rectangular survey system is used unless exhaustive fieldwork is done. The burden of submitting an offer which accurately describes the lands sought is placed by the regulations appropriately on those seeking to benefit from Federal lands. Milan S. Papulak, supra; Sam P. Jones, 45 IBLA 208 (1980). This Board has held that where BLM would have to go outside the offer form itself to determine exactly what land the offer embraced, the offer should be rejected as insufficient. See Leon Jeffcoat, 66 IBLA 80 (1982).

These oil and gas lease offers were properly rejected because they did not adequately describe the lands applied for in accordance with the regulations. See Chalfant, Magee & Hansen, Inc., 13 IBLA 252 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, those appeals brought without previous adverse decisions are dismissed, and the decisions appealed from are affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Will A. Irwin
Administrative Judge